

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CYNTHIA L. HOLMES, P.C. a)	
Missouri professional corporation,)	
individually and as the representative of a)	
class of similarly-situated persons,)	
)	Case No. 09-540-GPM
Plaintiff,)	
)	
vs.)	
)	
BACK DOCTORS LTD. d/b/a)	
FAIRVIEW HEIGHTS SPINE AND)	
INJURY CENTER,)	
Defendant.)	

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR LEAVE
TO FILE A SUMMARY COMPARISON OF CALLS**

COMES NOW Defendants, **BACK DOCTORS LTD. d/b/a FAIRVIEW HEIGHTS SPINE AND INJURY CENTER**, by and through its undersigned attorneys, and in Response to Plaintiff's Motion for Leave to File a Summary Comparison of Calls, states as follows:

1. Plaintiff has moved this Honorable Court for leave to file a Summary Comparison of Calls, a document prepared by the Plaintiff's attorney. (§ 2 Plaintiff's Motion) (DOC. 28).
2. This Summary Comparison of Calls allegedly compares Ramkissoon's telephone log with the EarthLink records submitted to the Court on November 19, 2009. (DOC. 15).
3. Although Plaintiff alleges that the Summary Comparison of Calls log is attached, it is not. (§ 2 Plaintiff's Motion) (DOC. 28).
4. Notwithstanding, Defendant objects to the Plaintiff's motion for leave to

supplement the record with the Summary Comparison of Calls log as the evidentiary hearing has been concluded, the Defendant has no ability to redirect the witness, and the subject log could have easily been prepared and submitted to the Court well before the hearing on February 8, 2010. In fact, Plaintiff had the information to create such a log since November 19, 2009.

5. Plaintiff insists that such a Summary of Calls is necessary to evaluate the credibility of Ms. Ramkissoon's testimony; however, a complete opportunity to challenge Ms. Ramkissoon's testimony was available to the Plaintiff at the time of the hearing on cross examination. Plaintiff was simply not prepared to do so.

WHEREFORE, Defendant **BACK DOCTORS LTD. d/b/a FAIRVIEW HEIGHTS SPINE AND INJURY CENTER**, respectfully requests this Honorable Court DENY Plaintiff's Motion for Leave to File a Summary of Comparison of Calls.

Respectfully Submitted,

DATED: February 15, 2010

BACK DOCTORS, LTD.

By: /s/ Brian T. Kreisler
One of Its Attorneys

Paul M. Weiss
George K. Lang
Eric C. Brunick
FREED & WEISS LLC
111 West Washington Street, Suite 1331
Chicago, Illinois 60602
(312) 220-0000

Richard J. Burke
RICHARD J. BURKE LLC
1010 Market Street, Suite 660
St. Louis, Missouri 63101
(314) 880-7000

Kevin T. Hoerner No. 06196686
Brian T. Kreisler No. 06283303
**BECKER, PAULSON, HOERNER
& THOMPSON, P.C.**
5111 West Main Street
Belleville, Illinois 62226
(618) 235-0020

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/EMF system, which will send notification of such filing(s) to all counsel of record.

Respectfully submitted,

s/ Brian T. Kreisler

Brian T. Kreisler

**BECKER, PAULSON, HOERNER
& THOMPSON, P.C.**

5111 West Main Street

Belleville, IL 62226

Tel: (618) 235-0020

Fax: (618) 235-8558

ARDC #06283303